

**TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE**



**FISCAL NOTE**

**SB 2921 - HB 3115**

March 10, 2012

**SUMMARY OF BILL:** Establishes a judicial process for the court to order a person to receive assisted outpatient mental health treatment under certain conditions as an alternative to inpatient treatment. Prior to the order, the court must receive a written, proposed treatment plan by a physician who has examined the proposed patient within 10 days. Upon receipt of the application, the court must set a hearing date within three days, excluding weekends and holidays. The court may order the proposed patient to receive assisted outpatient treatment for an initial period of no more than one year, unless there are not adequate community resources available to provide the recommended treatment plan, at which point the court shall state the findings of fact on the record and deny the treatment without prejudice. Within 30 days prior to the expiration of an order for assisted outpatient treatment, the authorized petitioner may apply to the court to order continued assisted outpatient treatment for a period not to exceed one year.

**ESTIMATED FISCAL IMPACT:**

**Increase State Expenditures –**

**Net Impact - \$1,659,400/FY12-13/General Fund**

**Net Impact - \$2,829,300/FY13-14/General Fund**

**Net Impact - \$2,323,000/FY14-15 and Subsequent Years/General Fund**

**\$1,400/FY12-13/Indigent Defense Fund**

**\$2,900/FY13-14 and Subsequent Years/Indigent Defense Fund**

**Increase Federal Expenditures – Net Impact - \$91,300**

**Net Impact - \$225,400**

**Increase Local Expenditures – Not Significant**

**Assumptions:**

- According to the Department of Mental Health (DMH), approximately 68 individuals will receive an evaluation in the first year. This number will likely remain constant in the second year. The annual average applied to this fiscal impact is 68 evaluations each year.
- Each evaluation will cost approximately \$250 resulting in a recurring increase in state expenditures of \$17,000 (68 applicants x \$250). According to DMH, evaluations do not usually qualify as medically necessary; therefore, all expenditures will be state funded.

- According to DMH, the initial court-ordered length of treatment, number of renewals, and length of renewals will differ among patients. After adjusting for the length-of-stay, it is estimated that all 68 evaluations in the first year and 136 evaluations in the second year will receive assisted outpatient treatment. For purposes of this fiscal estimate, it is assumed that 136 evaluations will receive assisted outpatient treatment and this number will remain constant each subsequent year.
- According to DMH, there are two options for treatment. The first option is to contract with a program of assertive community treatment (PACT) which costs approximately \$1,596 per-patient-per-month. The second option is to contract for individual services, possibly using multiple providers with a single coordinating agency which costs approximately \$1,779 per-patient-per-month. For the purposes of this fiscal estimate, the average cost of \$1,688 per-patient-per-month is used  $[(\$1,596 + \$1,779) / 2]$ .
- There will be an increase in state expenditures of \$1,377,408 (68 patients x \$1,688 x 12 months) in FY12-13 for treatment. The recurring increase in state expenditures in FY13-14 and subsequent years will be \$2,754,816 (136 patients x \$1,688 x 12 months) for treatment.
- Approximately 67.7 percent of these costs will be paid in state funds resulting in state expenditures of \$932,505 in FY12-13 and \$1,865,010 in FY13-14 and subsequent years.
- Approximately 14.7 percent of these costs will be reimbursed by TennCare resulting in state expenditures of \$68,462  $[(\$1,377,408 \times 14.7\%) \times 33.812\% \text{ state rate}]$  and federal expenditures of \$134,017  $[(\$1,377,408 \times 14.7\%) \times 66.188\% \text{ federal match rate}]$  in FY12-13. The recurring state expenditures in FY13-14 and subsequent years will be \$136,924  $[(\$2,754,816 \times 14.7\%) \times 33.812\% \text{ state rate}]$  and federal funds will be \$268,034  $[(\$2,754,816 \times 14.7\%) \times 66.188\% \text{ federal match rate}]$ .
- The remaining 17.6 percent of expenditures will be reimbursed through private health insurance, private parties, Medicare, and other resources.
- According to DMH, there are only two PACT programs statewide currently, which will not be sufficient to handle the additional caseload. Under the second option of contracting for individual care, there will be one-time and recurring costs associated with the coordination of the plans. Necessary start-up and oversight expenditures include costs associated with creating the new programs and increasing the capacity of the existing programs through facility, personnel, and resource expansions. The increased state expenditures in FY12-13 are estimated to be \$960,200 (\$237,900 state oversight and coordination + \$110,500 agency coordination + \$611,800 PACT start-up and coordination).
- The increased state expenditures associated with coordination and continuing to build the programs in FY13-14 will be \$1,129,100 (\$174,200 state oversight and coordination + \$226,800 agency coordination + \$728,100 PACT start-up and coordination).
- The recurring increase in state expenditures associated with coordination and oversight of the programs in FY14-15 and subsequent years will be \$622,800 (\$169,200 state oversight and coordination + \$226,800 agency coordination + \$226,800 PACT start-up and coordination).
- There will be some cost savings because applicants will not be admitted to the regional mental health institutes (RMHIs). According to DMH, the average cost of inpatient services at the RMHIs is \$6,450 per patient. The recurring estimated decrease in

expenditures for 68 individuals to not receive inpatient treatment at the RMHIs is \$438,600 (68 x \$6,450).

- Approximately 67.7 percent of these savings will be state funds resulting in a recurring decrease in state expenditures of \$296,932.
- Approximately 14.7 percent of these savings will be TennCare funds resulting in decreased state expenditures of \$21,800  $[(\$438,600 \times 14.7\%) \times 33.812\% \text{ state rate}]$  and federal expenditures of \$42,674  $[(\$438,600 \times 14.7\%) \times 66.188\% \text{ federal match rate}]$ .
- The remaining 17.6 percent will be recurring savings through private health insurance, private parties, Medicare, and other resources.
- The net increase in state expenditures in FY12-13 is \$1,659,435  $[(\$17,000 + \$932,505 + \$68,462 + \$960,200) - (\$296,932 + \$21,800)]$ .
- The net increase in state expenditures in FY13-14 is \$2,829,302  $[(\$17,000 + \$1,865,010 + \$136,924 + \$1,129,100) - (\$296,932 + \$21,800)]$ .
- The net recurring increase in state expenditures in FY14-15 and subsequent years is \$2,323,002  $[(\$17,000 + \$1,865,010 + \$136,924 + \$622,800) - (\$296,932 + \$21,800)]$ .
- The net increase in federal expenditures in FY12-13 is \$91,343  $(\$134,017 - \$42,674)$ .
- The net recurring increase in federal expenditures in FY13-14 and subsequent years is \$225,360  $(\$268,034 - \$42,674)$ .
- According to the Administrative Office of the Courts (AOC), there will be an increase in the caseloads in the court system which will result in additional state and local government expenditures for processing the cases and additional state and local government revenue from fees, taxes and costs collected. These expenditures and revenue are estimated to be not significant.
- It is estimated that a portion of these applicants will have counsel appointed to them. These appointed attorneys will be paid out of the Indigent Defense Fund. While an exact number of individuals needing representation is not known, it is assumed that 35 percent of the total number of applicants will have an attorney appointed to them.
- According to AOC, the average amount of a judicial hospitalization attorney fee claim was \$60.41 in FY09-10.
- It is estimated that the increase in state expenditures from the Indigent Defense Fund will be \$1,437.76 (68 applicants x 35% x \$60.41) in FY12-13 and \$2,875.52 (136 applicants x 35% x \$60.41) in FY13-14 and subsequent years.

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

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